

**BEFORE THE TENNESSEE REGULATORY AUTHORITY AT**

**NASHVILLE, TENNESSEE**

October 22, 2001

**IN RE:**

**APPLICATION OF INCOMNET COMMUNICATIONS  
CORPORATION FOR APPROVAL OF TRANSFER OF  
AUTHORITY**

)  
)  
)  
)  
)

**DOCKET NO.  
01-00588**

---

**ORDER APPROVING TRANSFER OF AUTHORITY**

---

This matter came before the Tennessee Regulatory Authority (the "Authority") at the regularly scheduled Authority Conference held on July 24, 2001 for consideration of the Application (the "Application") of Incomnet Communications Corporation ("ICC"), pursuant to the provisions of Tenn. Code Ann. § 65-4-113, for approval of a transfer of authority to provide utility services.<sup>1</sup>

**Requirement of and Standards for Authority Approval**

Tenn. Code Ann. § 65-4-113 requires a public utility to obtain Authority approval to transfer its authority to provide utility services. Tenn. Code Ann. § 65-4-113(a) provides as follows:

- (a) No public utility, as defined in § 65-4-101, shall transfer all or any part of its authority to provide utility services, derived from its certificate of public convenience and necessity issued by the authority, to any individual, partnership, corporation or other entity without first obtaining the approval of the authority.

---

<sup>1</sup> On July 3, 2001, the Authority received a notification from ICC regarding a change in the ownership of ICC. Because this change in ownership involves a transfer of the authority to provide utility services held by ICC, pursuant to Tenn. Code Ann. § 65-4-113, approval by the Authority is required. Therefore, the Authority deemed ICC's notification its Application for such approval.

Tenn. Code Ann. § 65-4-113(b) provides the standards by which the Authority shall consider an application for transfer of authority, in pertinent part, as follows:

(b) Upon petition for approval of the transfer of authority to provide utility services, the authority shall take into consideration all relevant factors, including, but not limited to, the suitability, the financial responsibility, and capability of the proposed transferee to perform efficiently the utility services to be transferred and the benefit to the consuming public to be gained from the transfer. . . .

### **The Application**

The Application states that ICC is a Delaware corporation certified as a reseller of interLATA telecommunications services in Tennessee.<sup>2</sup> The Application further states that prior to the transfer of control referred to in the Application, ICC was a wholly-owned subsidiary of Incomnet, Inc. (“Incomnet”).

According to the Application, ICC and Incomnet entered into an agreement for the reorganization and transfer of control of ICC to Ironwood Telecom LLC (“Ironwood”), under the terms of a reorganization plan entitled the Debtors’ Third Amended Joint Chapter 11 Plan of Reorganization (the “Plan”). The Order confirming and implementing the Plan was issued by the United States Bankruptcy Court on May 9, 2000 and was effective as of May 22, 2000. Upon implementation of the Plan, Incomnet ceased doing business and its assets were liquidated. Ironwood, a Colorado limited liability company, is a privately owned holding company which, under the terms of the plan, has only obtained stock ownership of ICC.

The Application states that the transaction was transparent to the customers of ICC and that there was no interruption of service or major change in the management or operation of ICC. The Application further states that the transfer of ownership had no effect on the company’s name, address, contact information, services, rates, or terms and conditions of service.

---

<sup>2</sup> ICC received its certification as a reseller of interLATA services in Tennessee by Order dated March 2, 1999 in Authority Docket No. 99-00883.

## **Findings**


The Directors of the Authority considered this matter at the July 24, 2001 Authority Conference. Based upon careful consideration of the Application, the Authority finds and concludes as follows:


1. The Authority has jurisdiction over the subject matter of this Application pursuant to Tenn. Code Ann. § 65-4-113;
2. Incomnet Communications Corporation has been granted authority to provide telecommunication services in Tennessee;
3. Ownership of Incomnet Communications Corporation will be transferred to Ironwood Telecom LLC, resulting in a transfer of the authority granted Incomnet Communications Corporation to provide utility services; and
4. Approval of the transfer of authority is appropriate pursuant to the provisions of Tenn. Code Ann. § 65-4-113.

**IT IS THEREFORE ORDERED THAT:**

1. The Application of Incomnet Communications Corporation for approval of the transfer of authority described herein is approved; and
2. Any party aggrieved by the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within fifteen (15) days from and after the date of this Order.

  
Sara Kyle, Chairman

  
H. Lynn Greer, Jr., Director

  
Melvin J. Malone, Director

ATTEST:

  
K. David Waddell, Executive Secretary